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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/803,301	03/09/2001	Jeffrey Sinsky	J. Sinsky-W.Yang 3-1	1204

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EXAMINER	
PHAM, THOMAS K	

ART UNIT	PAPER NUMBER
2121	

DATE MAILED: 09/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/803,301	SINSKY ET AL.	
	Examiner	Art Unit	
	Thomas K Pham	2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 April 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Response to Amendment

1. This action is in response to request for re-consideration filed on 4/19/2004.

2. New claims 9-11 filed by the applicant has been entered.

3. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

4. The indicated allowability of claim 8 is withdrawn in view of the newly discovered reference(s) to U.S. Patent No. 6,075,628 by Fisher et al. Rejections based on the newly cited reference(s) follow.

Quotations of U.S. Code Title 35

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim Rejections - 35 USC § 102

7. Claims 1-3 and 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,075,628 ("Fisher").

Regarding claim 1

Fisher teaches apparatus for performance-monitoring of a synchronous optical network standard signal comprising: supplied with the standard optical signal for converting the standard optical signal to an electrical signal (col. 3 lines 13-17, "The signal processor ... to the optical power"); separating from said electrical signal the framing signal portion thereof and leaving in its time slot the noise that was on the framing signal (col. 3 lines 17-28, "After a low pass ... than the signals reflected"); and separating selectively for inspection such noise from the data power for use as a measure of the quality of the standard optical signal (col. 2 line 12-17, "the transmitted data itself ... primary interference path").

Regarding claim 2

Fisher teaches separating the noise from the data includes a squaring circuit for increasing the discrimination between the relatively low noise power and the relatively high data power (col. 3 lines 39-44, "For accurate control of the ... dominate the decision process"), and a low pass filter circuit for passing selectively the noise power to a display for viewing (col. 4 lines 21-40, "The output ports of the ... the transmission system's software").

Regarding claim 3

Fisher teaches the squaring circuit is a diode (col. 4 lines 21-23, "The output ports ... 44a, 44b, 44c and 44d").

Regarding claim 7

Fisher teaches the process for performance monitoring of a SONET standard signal comprising the steps of converting the signal into an electrical signal (col. 3 lines 13-17, "The signal processor ... to the optical power"), separating from said electrical signal the framing signal in a manner to leave the noise in the framing signal time slot and the data power essentially undisturbed (col. 3 lines 17-28, "After a low pass ... than the signals reflected"), and displaying the noise power in the framing time slot of the separated signal (col. 4 lines 21-40, "The output ports of the ... the transmission system's software").

Regarding claim 8

Fisher teaches the process for performance monitoring of a SONET standard signal comprising the steps of converting the signal into an electrical signal (col. 3 lines 13-17, "The signal processor ... to the optical power"), separating from said electrical signal the framing signal in a manner to leave the noise in the framing signal time slot and the data power essentially undisturbed (col. 3 lines 17-28, "After a low pass ... than the signals reflected"), and displaying the noise power in the framing time slot of the separated signal (col. 4 lines 21-40, "The output ports of the ... the transmission system's software"); wherein before its display the separated signal is treated to increase the difference in the level of the noise power in the framing slot and the data power of the signal (col. 5 lines 25-28, "Known reflections, such as ... and subtracted off").

Regarding claims 9 and 10

Fisher teaches monitoring a SONET signal comprising: means for separating the signal power in a framing portion of the SONET signal from noise power in the framing portion (col. 3 lines 17-

28, "After a low pass ... than the signals reflected"); means for comparing the noise power in the framing portion to the signal power in the data portion of the SONET signal to determine a measure of the quality of the SONET signal (col. 2 line 12-17, "the transmitted data itself ... primary interference path").

Claim Rejections - 35 USC § 103

8. Claims 4-6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher in view of U.S. Patent 6,334,219 ("Hill").

Regarding claim 4

Fisher teaches a system for monitoring SONET signal by separating the framing signal from its noise but does not teach the filter is a notch filter. However, Hill teaches a monitoring system using a notch filter (col. 72 lines 49-67, "the ingress filter ... tunable notch filter") for the purpose of determining from the result of filtering how many channels the ingress actually corrupted. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the notch filter of Hill with the system of Fisher for the purpose of determining from the result of filtering how many channels the ingress actually corrupted.

Regarding claim 5

Fisher teaches the framing signal is separated from the noise in its time slot by a low pass filter but does not teach about including two 50 ohm lengths of transmission line and two one-quarter wavelength stubs of such a transmission line, of which one is shorter and the other open-ended. However, Hill discloses the Pidgeon prior art that teaches the Light Wave Transmission Lines (col. 2 lines 7-21, "U.S. Pat. No. 5,153,763 ... distortion reducing system") for the purpose of

reducing distortion of a transmitted broad band signal. Therefore, it would have been obvious and well known to one of ordinary skill in the art to use the two 50 ohm lengths of transmission line and two one-quarter wavelength stubs of such a transmission line over optical fiber networks for the purpose of reducing distortion of a transmitted broad band signal.

Regarding claim 6

Hill teaches separating the framing signal power from the noise power in its time slot is a notch filter (col. 72 lines 37-47, "One method provides ... ingress actually corrupted").

Regarding claim 11

Fisher teaches a system for monitoring SONET signal but does not teach separating the signal power in the framing portion is performed using a filter device adapted to filter out the spectral content of the framing signal of the SONET signal. However, Hill teaches a filter device adapted to filter out the spectral content of the framing signal of the SONET signal (col. 49 lines 14-21, "The ingress filter ... a common filter technique") for the purpose of protecting the communication channels from being destroyed. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the filter of Hill with the system of Fisher because it would provide for the purpose of protecting the communication channels from being destroyed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thomas Pham*; whose telephone number is (703) 305-7587 or the new number (571) 272-3689 beginning on October 2004, Monday - Friday from 8:00 AM - 5:00 PM EST or contact Supervisor *Mr. Anthony Knight* at *(703) 308-3179* (or 571 272-3687 starting Oct. 2004).

Any response to this office action should be mailed to: **Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.** Responses may also be faxed to the **official fax number (703) 872- 9306.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thomas Pham
Patent Examiner

TP

August 23, 2004

Anthony Knight
Supervisory Patent Examiner
Group 3600